

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 CHRISTOPHER TAFOYA,
12 Plaintiff,
13 v.
14 CITY OF HANFORD, et al.,
15 Defendants.
16

Case No. 1:20-cv-00010-LJO-SAB

ORDER DIRECTING CLERK OF THE
COURT TO ASSIGN THIS ACTION TO A
DISTRICT JUDGE FOR PUPOSES OF
CLOSING THE CASE AND ADJUST
DOCKET TO REFLECT DISMISSAL
UNDER FED. R. CIV. P. 41(a)

(ECF No. 8)

17 Plaintiff Christopher Tafoya, proceeding *pro se* and *in forma pauperis*, filed this civil
18 rights action pursuant to 42 U.S.C. § 1983. On January 21, 2020, Plaintiff's complaint was
19 screened and it was found not to state a cognizable claim. Plaintiff filed a first amended
20 complaint on February 13, 2020. Plaintiff's first amended complaint was screened on March 6,
21 2020. The first amended complaint was found not to state a claim and Plaintiff was to file an
22 amended complaint within thirty days. On March 30, 2020, Plaintiff filed a notice of voluntary
23 dismissal pursuant to Rule 41 of the Federal Rules of Civil Procedure.

24 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his
25 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”
26 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
27 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
28 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet

1 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th
2 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,
3 the parties are left as though no action had been brought, the defendant can’t complain, and the
4 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
5 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

6 Accordingly, the Clerk of the Court is HEREBY DIRECTED to assign a district judge to
7 this case for the purpose of closing the case and then to adjust the docket to reflect voluntary
8 dismissal of this action pursuant to Rule 41(a).

9
10 IT IS SO ORDERED.

11 Dated: **March 31, 2020**


UNITED STATES MAGISTRATE JUDGE